

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1460 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GOVINDBHAI KESHAVBHAICHAUHAN

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR ND GOHIL for Petitioner
MR BP TANNA for Respondent No. 1, 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 06/10/2000

ORAL JUDGEMENT

Learned advocate Mr.Gohil for the petitioner and
Mr. Tanna for the respondent No. 1 and 2.

This petition was admitted by this court on

12.8.1992 and the rule issued in this petition was made returnable on 7th September, 1992.

Brief facts of this petition are to the effect that the petitioner was working in the department of Gardens since 1972 and that the petitioner was attached to Bhikhabhai Garden on Ellisbridge, Ashram Road as a workman. That on 6.7.86, being a Sunday, a day off for the petitioner, the petitioner had gone to Kapadvanj in Kheda District to attend religious ceremony. On coming back, the petitioner came to be arrested on the charge of murder etc. and remained in jail as an under trial prisoner during the period between 7.7.86 to 24.10.86. On being enlarged on bail, the petitioner went to join the work and was allowed to resume. His attendance was also endorsed by Mr. Jani, the then Hajri Master but after the half day was over and the second half had started, the Section Officer Mr. Sombhai Patel of the Garden asked petitioner to go away as he had received instructions not to allow the petitioner to join duty as the trial was awaited against the petitioner. Subsequent thereto, after the trial in the sessions court, the petitioner came to be acquitted of the charges levelled against him on 19.8.1987 and on the next day, the petitioner went to resume the duty but was not allowed to resume for a number of days. He also represented before the Commissioner of the respondent corporation for allowing him to resume the duties and ultimately, he was allowed to resume the duty with effect from 9.9.1987. Thereafter, the petitioner made several representations before the respondent authorities for salary for the period between 7.7.1986 and 8.9.87 and all other consequential benefits in terms of Provident Fund, Increment, Gratuity etc. but of no avail. The petitioner had also made representation before the Chief Minister of the State. The petitioner had received a letter from the Labour Commissioner Ahmedabad wherein it has been mentioned that the letter of the petitioner addressed to the Chief Minister regarding his non payment of salary etc. has been sent to the relevant office for doing needful in the matter but ultimately, nothing has been heard by the petitioner in respect of the grievances raised by him. Ultimately, the petitioner has approached this court by means of this petition with a prayer for directing the respondents to treat the period between 7.7.1986 and 8.9.1987 as continuous on duty service without break and to direct the respondents to pay the salary for the period mentioned above and treating the service as continuous without break and to extend all the consequential benefits.

Today, when the matter was taken up for hearing, learned advocate Mr. Tanna appearing for the respondent Corporation has fairly submitted that if the application of the petitioner has still remained undecided, then the same will certainly be decided by the respondent corporation and the Court may direct the respondent corporation to decide the same within some reasonable period in accordance with law.

Having heard the learned advocates for the parties, I am of the opinion that if necessary directions are issued to the respondent Corporation for deciding the application dated 28th September, 1987 submitted by the petitioner in accordance with law within some stipulated period, it will meet the ends of justice.

Therefore, in the facts and circumstances of the case, the Municipal Commissioner of the respondent No.1 Ahmedabad Municipal Corporation is directed to decide the application dated 28th September, 1987 submitted by the petitioner (page 33 of the petition) within two months from the date of receipt of the order of this Court. The respondent Corporation shall decide such application of the petitioner as aforesaid while keeping in mind the fact that the petitioner has been acquitted by the Court in Sessions Case No. 7 of 1987 by judgment and order dated 19th August, 1987 and shall give sympathetic consideration and pass appropriate orders in accordance with law.

In view of the above directions, this petition is disposed of. Rule is discharged. There shall be no order as to costs.

6.10.2000. (H.K. Rathod,J.)

Vyas